

authority until the CMRS market is able to manage itself better, not only will consumers effectively have no accessible body to address, they will be deprived of their input with regard to the telecommunications services provided to them.

9. The LPSC Must Have The Ability To Influence All Of The Participants In The Louisiana Telecommunications Market To Achieve The Goal Of Universal Service And To Allocate The Costs Of Providing This Service.

The primary goal of Louisiana's telecommunication's policy is providing universal access to telecommunications services. *See* exhibit 50, Regulatory Committee Report, p. 5-11;⁸ exhibit 47, Service Providers Report, p. 19; *see also* pp. 3, 7 & 17; exhibit 8, LPSC Policy Statement; LPSC Minutes (Apr. 13, 1994) (adopting Policy Statement), attached hereto as exhibit 56. One aspect of providing universal access to service is the spreading of costs associated with the service equitably among providers in order to maintain a level, competitive playing field. *See* exhibit 8, LPSC Policy Statement, p. 2. A fair allocation of the costs of

8 The Regulatory Committee defined universal service as:

Universal service is the making available, to all persons, a complete set of telecommunications services and tools so as to insure equal access by all, including individuals, private industry, government, and institutions to an integrated, interactive global network that embraces the principles of free enterprise while recognizing the need for appropriate regulation thereby guaranteeing all participants the opportunity of developing new technologies and services in a for-profit environment while at the same time providing, at the lowest possible cost, certain basic services, as may be deemed appropriate by duly elected or appointed regulatory bodies, that offer a wide variety of features useful to all who actively participate in an "electronic society."

Regulatory Committee Report, p. 7-8.

providing universal service can only be achieved if one regulatory body has control over all of the industry's providers. This is precisely what was done when the Louisiana Commission last established interconnection rates for the cellular carriers' access to the local loop. *See* section III.A.4, *infra*. The LPSC regulates telephone rates and services. The LPSC should be allowed to retain equivalent rate regulatory authority over CMRS providers until the goal of universal service is realized or the market becomes sufficiently competitive to ensure that market forces will fulfill this goal independent of regulatory mandate.

Many of Louisiana's rural areas are afforded insufficient access to telecommunications services. This lack of services to rural areas in Louisiana merits attention and has been addressed by the Task Force. In its report, the Service Providers Committee recognized that:

Louisiana is in danger of losing the full benefit of technology unless policy goals provide for universal interactive information access to its citizens as a basic requirement. The qualities of reasonable cost and standard equal access cannot be achieved in low population density through competition alone.

See exhibit 47, Service Providers Report, p. 16.

This is the case because high cost rural areas have "natural monopolistic characteristics which do not lend themselves readily to marketplace experimentation." *See* exhibit 47, Service Providers Report, p. 16. Thus, until competitive market forces take over, regulation is required to allocate the costs of providing service to rural areas and thereby maintain an even, competitive playing field among those providers with universal service obligations and those who do not, by their nature, share such obligations. If the goal of universal service is to be achieved in Louisiana, the LPSC must be allowed to regulate CMRS providers in the state until more

infrastructure is in place and until competitive forces adequately control both rates and service quality and availability.

Moreover, as previously discussed, the LPSC has opened a docket to develop a regulatory framework for the Task Force. This framework would include an STMP thereby enabling telecommunications providers in Louisiana to obtain low interest, REA financing. *See* exhibit 54, LPSC Minutes (Mar. 9, 1994). Again, the LPSC must retain authority over all telecommunications providers to accomplish these objectives.

D. The LPSC's Proposed And/Or Existing Rules

As discussed previously, in Section III.A.1, *supra*, the Louisiana Commission currently has in effect a series of guidelines which must be followed by any cellular carrier wishing to register to do business in this State. The information which must be provided is as follows:

1. Legal name of applicant and name under which applicant will do business;
2. Address and phone number;
3. Corporate structure; organizational documents including a schematic of affiliated entities;
4. Phone number and title of party who will serve as liaison with the LPSC;
5. Rate tariff, including terms of service;
6. Statement of cellular territory awarded by the FCC;
7. Showing of applicant's technical capability to support offered services;
8. File annual report with LPSC; and

9. Verification that company will comply with LPSC guidelines and requirements.

The Louisiana Commission intends to keep these filing requirements in effect at least until it concludes the investigation into the cellular industry's operations which has been commenced recently.

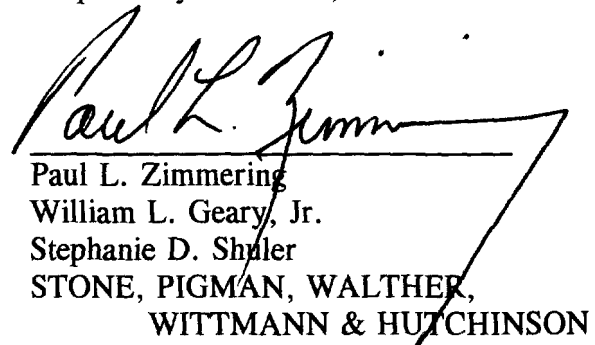
Although the amendments to the Federal Communications Act and the guidelines contained in the Second Report and Order are not perfectly clear, it appears that petitioning state commissions are required to establish and present proposed rules both in situations in which they seek to retain rate jurisdiction and those in which they seek to initiate rate regulatory authority. These rules apparently would have to be in place prior to the time that the FCC determines whether or not the state will be able to exert such rate regulatory authority. While the Louisiana Commission intends to retain those rules that are currently in effect, at least until the conclusion of its investigation of the cellular industry, it is unable, at this time, to determine what additional or different rules may be required in the future. Moreover, for the reasons set forth below, we believe that it would be inappropriate for the Louisiana Commission to specify, at this time, the rules that will be in effect in the future. First, setting rules now, prior to the completion of our investigation, would put the cart before the horse. The LPSC investigation is designed to determine what, if any, problems exist in the industry. Only if problems are identified will we enact rules in an attempt to solve them. In such case, the proposed rules would be designed specifically to address the type of problems discovered. Designing rules before the completion of the investigation in essence, would be to perform rulemaking in a vacuum. In addition, if the rules were established today, it might appear that the Louisiana Commission was prejudging the issues involved in the investigation, a situation which neither the Commission nor the

industry would find acceptable. Finally, waiting until the investigation is completed clearly would be the most efficient course of action. The Louisiana Commission has scarce resources and to expend them on what might in fact be a vain and useless act makes no sense. For all of these reasons, the Louisiana Commission respectfully suggests that the FCC await the conclusion of our investigation prior to requiring it to establish the guidelines which will govern the industry in the future.

IV. CONCLUSION

For the foregoing reasons, the Louisiana Public Service Commission respectfully requests that it be allowed to retain all of the authority it currently exercises over mobile carriers, including the authority to regulate the rates charged by commercial mobile radio service carriers in Louisiana.

Respectfully submitted,


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Special Counsel to the
Louisiana Public Service Commission



Louisiana Public Service Commission

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COMMISSIONERS

Kathleen Babineaux Blanco, *Chairman*
District II
John F. Schwegmann, *Vice Chairman*
District I
Thomas Powell, *Member*
District IV
Don L. Owen, *Member*
District V
Irma Muse Dixon, *Member*
District III

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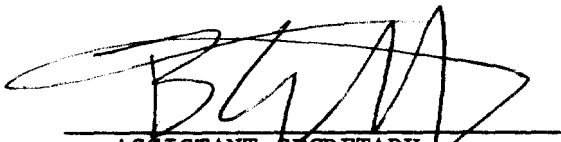
MARSHALL B. BRINKLEY
Secretary

ROY F. EDWARDS
*Assistant to the
Secretary*

I, Brian A. Eddington, Assistant Secretary of the Louisiana Public Service Commission, do hereby certify that the hereto attached is a true and correct copy of the document(s) described following:

**Louisiana Public Service Commission's Partial Minutes of July 13, 1994,
Open Session held in Baton Rouge, Louisiana. (Page 1 and Page 6).**

TESTIMONY WHEREOF, I have hereunto officially signed my name and affixed the seal of the Louisiana Public Service Commission at Baton Rouge, Louisiana, this 5 day of August, 1994.



ASSISTANT SECRETARY



LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM JULY 13, 1994
OPEN SESSION

MINUTES OF JULY 13, 1994 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT: CHAIRMAN KATHLEEN B. BLANCO, VICE CHAIRMAN JOHN F. SCHWEGMANN, COMMISSIONERS DON OWEN, THOMAS E. POWELL, AND IRMA MUSE DIXON. SECRETARY MARSHALL B. BRINKLEY ABSENT DUE TO ILLNESS.

Open Session of July 13, 1994 convened at 9:15 A.M., adjourning at 4:00 P.M. in the LPSC Auditorium, 16th Floor, One American Place, Corner of North and Fourth Streets, Baton Rouge, Louisiana with the above-named members of the Commission. Secretary Marshall B. Brinkley absent due to illness. Assistant Secretary Brian Eddington representing Secretary Marshall B. Brinkley.

T-20786 - Younger Brothers, Inc. (Houston, Texas), ex parte. In re: Application to amend Tariff LPSC No. 15, Item No. 155 (cleaning charges) by publishing a tank cleaning charge of \$80.00 on shipments of caustic soda.

On motion of Commissioner Owen, seconded by Commissioner Blanco, and unanimously adopted, the Commission approved the application.

T-20889 - Louisiana Tank Truck Carriers, Inc. (Baton Rouge, Louisiana) on behalf of participating carriers, ex parte. In re: Application to amend LPSC Tariffs 1-F (Petroleum Products in Bulk) and 2-D (Petroleum Crude Oil and Asphalt) by increasing all rates and charges approximately 5%.

On motion of Commissioner Owen, seconded by Commissioner Powell, with Commissioners Blanco and Dixon concurring, and Commissioner Schwegmann dissenting with his customary reasons regarding joint rate applications, the Commission approved the application.

T-20775 - Louisiana Public Service Commission vs. Gene Chandler, Sr. (Gretna, Louisiana). In re: Alleged violation of Title 45, Chapter 4 of the Revised Statutes of 1950, as amended, by operating for-hire by motor vehicle without authority of the Commission.

On motion of Commissioner Owen, seconded by Commissioner Dixon, and unanimously adopted, the Commission voted to accept the Staff recommendation and found the Company guilty and fined in the amount of \$250.00 with \$100.00 suspended contingent upon payment within 15 days from the date of the Order and no further violations.

T-20885 - Louisiana Public Service Commission vs. Western American Specialized Transportation Services, Inc. (Lafayette, Louisiana). In re: Alleged tariff rate violation of Title 45:168 B. (1)(a), Chapter 4 of the Revised Statutes of 1950, as amended, by charging below tariff rates.

On motion of Commissioner Blanco, seconded by Commissioner Dixon, and unanimously adopted, the Commission voted to accept the Staff recommendation and found the Company guilty and fined in the amount of \$273.00, which is 10% of the total revenues from the eight improper moves, payable within 15 days from the date of the Order.

U-20647 - Louisiana Public Service Commission, ex parte. In re: Investigation of the practices and procedures of Gulf States Utilities Company in connection with its computation of the fuel adjustment factor.

Report of Special Counsel Fontham

On motion of Commissioner Powell, seconded by Commissioner Blanco, and unanimously adopted, the Commission voted to adopt the Report of Special Counsel. The Commission ordered the refund recommended in the report, but ordered Gulf States to refund \$13.1 million through a one-time billing credit in the next billing cycle, and suspended the remainder of the refund to permit Gulf States to file a motion for rehearing. If Gulf States fails to move for a rehearing, the remainder of the refund will be required through a one-time credit on the next billing cycle. Gulf States will be required to provide a billing insert to customers explaining the refund.

Louisiana Power & Light Company's Gas Purchase Rates
(at request of Commissioner Schwegmann)

Action deferred. Commissioner Schwegmann requested LP&L to present a report to the Commissioners regarding its Gas Purchase Rates and Procedures at the earliest possible date.

South Louisiana Electric Cooperative Association. In re: Application to renew a line of credit with the National Rural Utilities Corporative Finance Corporation in the amount of \$3,000,000 for a five year period.

On motion of Commissioner Blanco, seconded by Commissioner Powell, with Commissioners Owen and Dixon concurring, and Commissioner Schwegmann momentarily absent, the Commission approved the application.

T-20956 - Dupre' Transport, Inc. (Opelousas, Louisiana), ex parte. In re: Application to amend Tariff 100-D by increasing certain rates and charges approximately 7%. (at request of Commissioner Blanco)

On motion of Commissioner Powell, seconded by Commissioner Blanco, with Commissioners Owen and Dixon concurring, and Commissioner Schwegmann momentarily absent, the Commission approved the application.

✓ Commission jurisdiction over cellular carriers. (at request of Commissioner Blanco)

On motion of Commissioner Schwegmann, seconded by Commissioner Owen, and unanimously adopted, the Commission voted to establish a docket to investigate and evaluate through the hearing process the merits of regulating cellular mobile carriers and other wireless communication providers on rate of return basis and to recommend the types of regulation that should be exercised by the Commission over its carriers. The Commission further voted to issue RFP's for Special Counsel and consultants to assist the Commission Staff in this investigation.

On motion of Commissioner Dixon, seconded by Commissioner Blanco, and unanimously adopted, the Commission voted to direct its staff to file with the FCC by August 10, 1994, the requisite information required by the Omnibus Budget Reconciliation Act in order for the Commission to retain its existing jurisdiction over mobile carriers.

AFFIDAVIT OF AUTHORITY

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

Before me the undersigned notary came and appeared Brian Eddington, Assistant Secretary of the Louisiana Public Service Commission, who after being sworn did state and affirm that:

The Louisiana Public Service Commission is the duly authorized State agency responsible for the regulation of telecommunication services provided in the State. The Louisiana Constitution, Art. IV, Section 21 B provides that, "The Commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law."

The Louisiana Public Service Commission, through what has been held by the Louisiana Courts to be a plenary constitutional grant of authority, as well as the statutory authority found in Louisiana Revised Statutes, Title 45, particularly La. R.S. 45:1161 et seq. and La. R.S. 45:1500 et seq. is the proper party to assert that it is the duly authorized State agency responsible for the regulation of telecommunication services provided in the State.

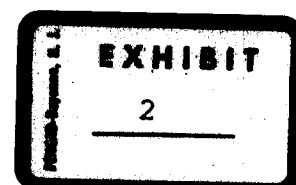
Kathleen Miller
WITNESS

Brian Eddington
BRIAN EDDINGTON

Janet Soumier Britton
WITNESS

Carolyn De Vito
NOTARY

This 5th day of August, 1994



§ 21. Public Service Commission

Section 21. (A) **Composition; Term; Domicile.** There shall be a Public Service Commission in the executive branch. It shall consist of five members, who shall be elected for overlapping terms of six years at the time fixed for congressional elections from single member districts established by law. Each commissioner serving on the effective date of this constitution shall be the commissioner for the new district in which he resides and shall complete the term for which he was elected. The commission annually shall elect one member as chairman. It shall be domiciled at the state capital, but may meet, conduct investigations, and render orders elsewhere in this state.

(B) **Powers and Duties.** The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

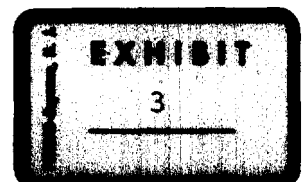
(C) **Limitation.** The commission shall have no power to regulate any common carrier or public utility owned, operated, or regulated on the effective date of this constitution by the governing authority of one or more political subdivisions, except by the approval of a majority of the electors voting in an election held for that purpose; however, a political subdivision may reinvest itself with such regulatory power in the manner in which it was surrendered. This Paragraph shall not apply to safety regulations pertaining to the operation of such utilities.

(D) **Applications, Petitions, and Schedules; Protective Bond and Security.**

(1) Within twenty days after a common carrier or public utility files a proposed rate schedule which would result in a change in rates, it shall give notice thereof by publication in the official state journal and in the official journal of each parish within the geographical area in which the schedule would become applicable.

(2) Within twelve months after the effective filing date, the commission shall render a full decision on each application, petition, and proposed rate schedule.

(3) After the effective filing date of any proposed schedule by a public utility which would result in a rate increase, the commission may permit the proposed schedule to be put



Art. 4, § 21

CONSTITUTION OF 1974

into effect, in whole or in part, pending its decision on the application for rate increase and subject to protective bond or security approved by the commission. If no decision is rendered on the application within twelve months after such filing date, the proposed increase may be put into effect, but only if and as provided by law and subject to protective bond or security requirements, until final action by a court of last resort.

(4) If a proposed increase which has been put into effect is finally disallowed, in whole or in part, the utility shall make full refund, with legal interest thereon, within the time and in the manner prescribed by law.

(E) Appeals. Appeal may be taken in the manner provided by law by any aggrieved party or intervenor to the district court of the domicile of the commission. A right of direct appeal from any judgment of the district court shall be allowed to the supreme court. These rights of appeal shall extend to any action by the commission, including but not limited to action taken by the commission or by a public utility under the provisions of Subparagraph (3) of Paragraph (D) of this Section.

Historical Note

Earlier Constitutions:	1913, Arts. 283, 284, 285, 287, 288.
1921, Art. 6, §§ 3 to 5, 7, 9.	1898, Arts. 283, 284, 285, 287, 288.

Cross References

Action to contest decision, ruling, rate, etc., see LSA-R.S. 45:1193 to 45:1195.
Actions for violations of orders, see LSA-R.S. 45:1198 to 45:1199.
Appeal from orders,
 Generally, see LSA-R.S. 45:1192.
 Determining amount of investigation expenses, see LSA-R.S. 45:1181.
 Petroleum pipe line, order relating to, see LSA-R.S. 45:263.
Compensation,
 Engineers, consultants, and accountants employed by commission, see LSA-R.S. 45:1180 to 45:1181.
 Members of commission, see LSA-R.S. 45:1162.
 Sheriff, for serving of process, see LSA-R.S. 45:1189.
Complaint in proceeding for violation of orders, see LSA-R.S. 45:1196, 45:1197.
Contempt of, punishment, see LSA-R.S. 45:163, 45:1186.
Damages for violation of orders, see LSA-R.S. 45:1197 et seq.
Election of members of commission,
 Declaration and notice of candidacy at primary, see LSA-R.S. 18:310.
 Fees for primary election candidate, see LSA-R.S. 18:311.
 Order for primary election, see LSA-R.S. 18:302.
Employment of consultants and engineers by commission, see LSA-R.S. 45:1181.
Equipment certificates, exemption from blue sky law, see LSA-R.S. 51:704.
Fee for inspection and supervision, see LSA-R.S. 45:1177 to 45:1179.
Foreign railroads subject to jurisdiction, see LSA-R.S. 45:354.
Highway crossings, powers and duties relating to, see LSA-R.S. 45:841 to 45:844.
Implementation of this section, see Art. 14, § 20.

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Ch. 9 MULTIPLE UTILITIES OR CARRIERS R.S. 45:1161

thereto or to the authorization or issuance of such bonds or the security therefor or the granting of such franchise shall be necessary except as required by these provisions.

History and Source of Law

Source:

Acts 1938, No. 376, § 11.

PART V. PUBLIC SERVICE COMMISSION

Law Review Commentaries

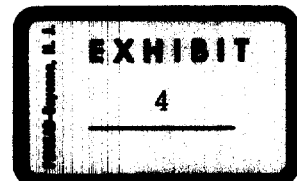
Work of the Louisiana Public Service
Commission. Nat. B. Knight, 16 Tulane
L.Rev. 1 (Dec. 1941).

§ 1161. Definitions

As used in this Part "commission" means the Louisiana Public Service Commission.

As used in R.S. 45:1168 through 45:1175:

(1) "Public utility" means any person, public or private, subject to the general jurisdiction of the commission but not including carriers by rail, water, electric or motor vehicles or pipelines, or public utilities municipally owned, or operated, or regulated, unless the electors of such municipality, and electors residing outside the municipality, who are customers of the municipally owned utility, have manifested their approval of such jurisdiction as is required by Article IV, Section 21(C) of the Constitution of Louisiana in the manner provided by R.S. 45:1164.1 through 45:1164.13. However, "public utility" shall not include any person owning, leasing and/or operating an electric generation facility provided such person is not primarily engaged in the generation, transmission, distribution and/or sale of electricity, and provided that such person (a) consumes all of the electric power and energy generated by such facility for its own use at the site of generation or at some other location of mutually acceptable agreements to transport such electric power and energy can be reached with each electric public utility whose transmission facilities would be electrically utilized therefor; provided, however, notwithstanding any provision contained herein, there shall be no obligation or duty, expressed or implied, to purchase, to sell, to transport, or to engage in any other type of transaction with respect to the electric power and energy that may be generated by such person, imposed upon any public utility by this Section except as shall be provided in the cogeneration rules and regulations adopted by the Louisiana Pub-



R.S. 45:1161 PUBLIC UTILITIES—CARRIERS

Ch. 9

lic Service Commission pursuant to the Public Utility Regulatory Policies Act of 1978; or (b) only consumes a portion thereof in such manner and sells the entire remaining portion of such electric power and energy generated to an electric public utility as defined in R.S. 45:121; or (c) sells the entire production of electric power and energy generated by such facility to an electric public utility as defined in R.S. 45:121.

(2) "Security" means any note, stock, treasury stock, bond, debenture or other evidence of interest in or indebtedness of a public utility.

Amended by Acts 1970, No. 34, § 4; Acts 1975, No. 328, § 1; Acts 1982, No. 566, § 1.

History and Source of Law

Source:

Acts 1948, No. 480, § 1.

The 1970 amendment, in paragraph (1), deleted "or electric properties owned or operated by rural cooperatives" following "owned or operated".

The 1975 amendment, in paragraph (1), added "or regulated, unless the electors of such municipality, . . . and electors residing outside the municipality, who are customers of the municipally owned utility, have manifested their approval of such jurisdiction as is required by Article IV, Section 21(C) of the Constitution of 1974 in the manner provided by R.S. 45:1164.1-45:1164.13".

The 1982 amendment rewrote paragraph (1), which previously read:

"(1) 'Public utility' means any person, public or private, subject to the general jurisdiction of the commission but not including carriers by rail, water, electric, or motor vehicles or pipelines, or public utilities municipally owned, or operated, or regulated, unless the electors of such municipality, . . . and electors residing outside the municipality, who are customers of the municipally owned utility, have manifested their approval of such jurisdiction as is required by Article IV, Section 21(C) of the Constitution of 1974 in the manner provided by R.S. 45:1164.1-45:1164.13."

Reporter's Notes

Acts 1948, No. 480 has no counterpart in the Revised Statutes: it is entirely new. The 1948 act brings security issues and assumptions of any obligation or liability by a public utility under the surveillance of the public service commission.

The act has been split up so that the definition section will be incorporated in the definition section of the Part. Section 2 of the act has been placed immediately following those sections of the Part that deal with the general powers of the commission regulating utilities and carriers. The section was quite lengthy, and hence has been divided into several sections.

Section 3 of the 1948 act reads "The powers and authority described in this Act are in no wise exclusive and are not intended to delimit the authority of the Commission, nor to remove or withdraw any powers and authority of the Commission under existing statutory or constitutional provisions, except such statutory provisions as may be in direct and unmistakable conflict herewith." This section has been deleted as surplusage since the powers enumerated in the act are entirely new, and hence, your reporter sees nothing that would be either superseded or conflicting.

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§ 1163. Power to regulate rates and service; exceptions

The commission shall exercise all necessary power and authority over any street railway, gas, electric light, heat, power, waterworks, or other local public utility for the purpose of fixing and regulating the rates charged or to be charged by and service furnished by such public utilities; however, no aspect of direct sales of natural gas by natural gas producers, natural gas pipeline companies, natural gas distribution companies, or any other person engaging in the direct sale of natural gas to industrial users for fuel or for utilization in any manufacturing process shall be subject to such regulation by the commission. In addition, a schedule of rates of an electric cooperative shall not require approval of the commission if the schedule previously was approved by the board of directors of the electric cooperative and by the federal government or any agency thereof, nor shall the authority of the commission extend to the service rendered by electric cooperatives except to the extent provided in R.S. 45:123 and in orders of the commission promulgated to effectuate the purposes of R.S. 45:123.

Amended by Acts 1964, No. 446, § 1; Acts 1978, No. 77, § 1.

History and Source of Law

Source:

Acts 1934, 2nd Ex.Sess., No. 19, § 1.
The 1964 amendment added “; provided, however, that no aspect of direct sales of natural gas by natural gas producers, natural gas pipeline companies, natural gas distribution companies or any other person engaging in the direct sale of natural gas to industrial users

for fuel or for utilization in any manufacturing process, shall be subject to such regulation by the commission.

The 1978 amendment added the last sentence relating to elective cooperatives and deleted “provided” preceding “however” in the first sentence. The amendment also added “exceptions” to the section heading.

Cross References

Exemption of commissioner of conservation, see R.S. 30:551.
Radio common carriers, regulation, see R.S. 45:1500 et seq.

Law Review Commentaries

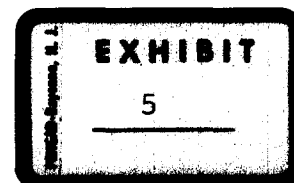
The changing nature of utility rate regulation: Just compensation, due process, and equal protection. Part I. Melvin G. Dakin, 36 Tulane L.Rev. 401 (1962); Part II. Melvin G. Dakin, 36 Tulane L.Rev. 711 (1962).

Library References

Public Service Commissions §§ 6.5, 7.1 et seq. C.J.S. Public Utilities §§ 13 et seq., 40, 41.

United States Supreme Court

Privately owned utilities regulated by state, application of Fourteenth Amendment to state, termination of service, see Jackson v. Metropolitan Edison Company, 1974, 95 S.Ct. 449, 419 U.S. 345, 42 L.Ed.2d 477.



Ch. 9 **MULTIPLE UTILITIES OR CARRIERS** **R.S. 45:1176**

History and Source of Law

Source:

Acts 1948, No. 480, § 2.

The 1970 amendment inserted paragraph (3).

R.S. 45:123, as amended by Acts 1970, No. 34, § 2, provides that nothing in this section shall alter the rights or authority of municipalities with respect to franchises.

Cross References

Blue Sky Law, securities exempt, see R.S. 51:708.

Library References

Public Service Commissions ⇐6.10. C.J.S. Public Utilities § 43.

§ 1176. Investigations as to reasonableness of rates; operating expenses

The commission and any parochial or municipal body having similar powers in the fixing of just and reasonable rates charged or to be charged by public utilities, shall investigate the reasonableness and justness of all contracts, agreements and charges entered into or paid by such public utilities with or to other persons, whether affiliated with such public utilities or not, and shall have the power to disallow as an operating expense of any public utility such part of the amount so paid by it under any such contract or agreement as the commission or parochial or municipal body may find, after hearing, to be unjust or unreasonable and designed for the purpose of concealing, abstracting or dissipating the net earnings of the public utility.

History and Source of Law

Source:

Acts 1932, No. 203, § 1.

Cross References

Expenses of rate investigations, see R.S. 45:1180 to 45:1183.

Rates and services, power to regulate, see LSA-Const., Art. 4, § 21; R.S. 45:1163.

Law Review Commentaries

Gulf states utilities, the Public Service Commission, and the Supreme Court: On raising the electric rates. 40 La.L. Rev. 1048 (1980).

Library References

Public Service Commissions ⇐6.8, 7-4.

C.J.S. Public Utilities §§ 13 et seq., 40, 41.

Notes of Decisions

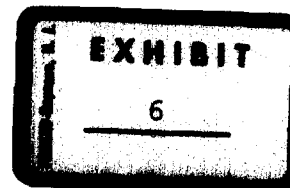
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CHAPTER 12. RADIO COMMON CARRIERS

Sec.

- 1500. Regulation of radio common carriers.
- 1501. Definitions.
- 1502. Rates; service; rules and regulations.
- 1503. Certificate of public convenience and necessity; exceptions.
- 1504. Interconnection with telephone facilities.

This Chapter, enacted as Chapter 11 by Acts 1968, No. 634, § 1, was redesignated as Chapter 12 on authority of R.S. 24:253.

§ 1500. Regulation of radio common carriers

The Louisiana Public Service Commission shall exercise over and in relation to radio common carriers the powers conferred by this Chapter.

Added by Acts 1968, No. 634, § 1.

Cross References

Transfer of The Public Service Commission to the Department of Public Service, see R.S. 36:725.

United States Code Annotated

Wire or radio communication, common carriers, see 47 U.S.C.A. § 201 et seq.

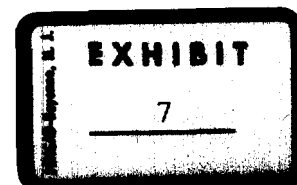
§ 1501. Definitions

A. The word "commission" when used in this Chapter means the Louisiana Public Service Commission.

B. The word "commissioners" when used in this Chapter means the commissioners of the Louisiana Public Service Commission.

C. The term "radio common carriers" when used in this Chapter includes every corporation, company, association, partnership and persons and lessees, trustees, or receivers, appointed by any court whatsoever owning, operating or managing a radio common carrier or public "for hire" radio service engaged in the business of providing a service of radio communications between mobile and base stations, between mobile and land stations, including land line telephones, between mobile stations or between land stations, but not engaged in the business of providing a public land line message telephone service or a public message telegraph service.

D. Notwithstanding any provisions of R.S. 45:781 through 45:790 inclusive, or any provision of this Chapter, the term "radio



common carrier" as used in this Chapter shall not be construed to mean a company operating under the provisions of Title 45, Chapter 8, of the Louisiana Revised Statutes, and no such radio common carrier shall have any of the powers, rights or duties provided for and prescribed by said Title 45, Chapter 8.

Added by Acts 1968, No. 634, § 1.

§ 1502. Rates; service; rules and regulations

The rates of every radio common carrier shall be just, reasonable, and not unduly preferential; the service of every such carrier shall be adequate and not unduly preferential, and the rules and regulations of every such carrier shall be just, reasonable and not unduly preferential. It shall be the duty of the commissioners to prescribe appropriate rules and regulations, and to make such orders as may be necessary and proper, to insure that such radio common carrier rates, services, rules and regulations are reasonable, just, adequate and not unduly preferential.

Added by Acts 1968, No. 634, § 1.

Library References

Telecommunications ☞ 383, 448.

C.J.S. Telegraphs, Telephones, Radio,
and Television §§ 83 et seq., 298 to
301.

§ 1503. Certificate of public convenience and necessity; exceptions

A. No radio common carrier shall begin, or continue, the construction or operation of any mobile radio system, or any extension thereof, or acquire ownership or control thereof either directly or indirectly without first obtaining from the public utilities commission a certificate that the present or future public convenience and necessity requires or will require such construction, operation or acquisition; provided this Chapter shall not require, nor shall it be so construed as to require, any such carrier to secure a certificate for an extension within any municipality within which such person has heretofore lawfully commenced operations, or for any extension within or to territory already served by such carrier, necessary in the ordinary course of business, or for substitute facilities within or to any municipality or territory already served by such carrier, or for any extension into territory contiguous to that already served by such carrier and not receiving similar service from another such carrier when no certificate of convenience and necessity has been issued to or applied for by any other radio common carrier, or for the acquisition and op-

eration of any plant or system heretofore constructed or hereafter constructed under authority of a certificate of convenience and necessity hereafter issued. The commissioners are hereby authorized to prescribe appropriate and reasonable rules and regulations governing the issuance of such certificates.

B. Any person engaged in the construction or operation of any radio common carrier on July 31, 1968 shall receive a certificate of convenience and necessity from the Louisiana Public Service Commission authorizing such person to continue the construction or operation of such radio common carrier in the territory professed to be served by such person on July 31, 1968 if, within sixty days after July 31, 1968, such person shall file with the commission an application for such certificate, including copies of any license or licenses issued by the Federal Communications Commission to such person, showing the area professed to be served by such person.

C. The commission shall not grant a certificate for a proposed radio common carrier operation or extension thereof which will be in competition with or duplication of any other radio common carrier unless it shall first determine that the existing service is inadequate to meet the reasonable needs of the public and that the person operating the same is unable to or refuses or neglects after hearing on reasonable notice to provide reasonable adequate service.

Added by Acts 1968, No. 634, § 1.

Library References

Telecommunications 385.

C.J.S. Telegraphs, Telephones, Radio, and Television § 302.

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quate service are to provide efficient service in radio-telephone communications and to preserve procedural fairness in the administration of the certificates. *Communications Industries, Inc. v. Louisiana Public Service Commission*, 1971, 259 La. 1133, 254 So.2d 613.

2. Duplication of services

Public convenience and necessity requires that there be no wasteful duplication of services and that the need be such that duplication of services will not result in waste. *Southern Message Service, Inc. v. Louisiana Public Service Commission*, Sup.1979, 370 So.2d 874.

3. Notice and hearing

Where, despite technical noncompliance with Public Service Commission's

1. In general

Purposes of this section providing that Public Service Commission shall not grant certificate for proposed radio common carrier operation which will be in competition with any other radio common carrier unless it first determines that the existing service is inadequate and that the person operating the same is unable to or refuses or neglects after hearing to provide reasonable ade-